

ORDER NO. 950

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman;
Nanci E. Langley; and
Robert G. Taub

Rosser Post Office
Rosser, Texas

Docket No. A2011-23

ORDER AFFIRMING DETERMINATION

(Issued November 4, 2011)

I. INTRODUCTION

On July 14 and 15, 2011, the Commission received two petitions for review (Petitions) of the closing of the Rosser, Texas post office (Rosser post office). Petitions were filed by Chris Taliaferro and Slone Taliaferro (Petitioners).¹ After review of the record in this proceeding, the Commission affirms the Final Determination to close the Rosser, Texas post office.

¹ Petition for Review Received from Chris Taliaferro Regarding Rosser Texas Post Office 75157, July 14, 2011, and Petition for Review Received from Slone Taliaferro Regarding Rosser Texas Post Office 75157, July 15, 2011. (Petitioners). The petitions are identical except for signatures.

II. PROCEDURAL HISTORY

In Order No. 764, the Commission established Docket No. A2011-23 to consider the appeal, designated a Public Representative, and directed the Postal Service to file the Administrative Record or otherwise file a pleading responsive to the appeal.²

On July 29, 2011, the Postal Service filed the Administrative Record with the Commission.³ The Postal Service also filed comments requesting that the determination to close the Rosser post office be affirmed.⁴ The Public Representative filed a reply brief on September 16, 2011.⁵ Petitioners did not file any documents other than their petitions for review.

III. BACKGROUND

The Rosser, Texas post office, classified as level EAS-11, provides service from 8:00 a.m. to 4:00 p.m., Monday through Friday, and 9:00 a.m. through 11:00 a.m. on Saturday. Final Determination at 2. In addition to providing retail services, *e.g.*, sale of stamps, stamped paper, and money orders, it serves 147 post office box customers.

The Rosser post office averages 19 window transactions per day. Its revenues have declined from \$15,438 in FY 2008 to \$12,347 in FY 2010 (32 revenue units).

The Postal Service has made a decision to close the Rosser post office and provide delivery and retail services by rural route delivery administered by the Scurry post office, located 6 miles away. *Id.* Post office box and retail services are available at

² Notice and Order Accepting Appeal and Establishing Procedural Schedule, July 19, 2011 (Order No. 764).

³ The Administrative Record is attached to United States Postal Service Notice of Filing, July 29, 2011 (Administrative Record). The Administrative Record includes a table of contents listing 44 items. However, the Administrative Record contains items numbered 47 and 48. Item No. 47 is the Final Determination to Close the Rosser, TX Post Office and Establish Service by Rural Route Service (Final Determination).

⁴ United States Postal Service Comments Regarding Appeal, September 7, 2011 (Postal Service Comments).

⁵ Reply Brief of the Public Representative, September 16, 2011 (PR Reply Brief).

the Scurry post office from 8:30 a.m. through 4:30 p.m. Monday through Friday, and closed on Saturday. *Id.*; see also Postal Service Comments at 2-3.

On March 29, 2008, the Rosser postmaster was promoted. A non-career employee from a neighboring office was installed as the temporary officer in charge. Final Determination at 2.

On January 27, 2011, questionnaires regarding a possible change in service were distributed to delivery customers of the Rosser post office. Questionnaires were also available over the counter for retail customers. *Id.* On February 15, 2011, the Postal Service held a community meeting in Rosser to address customer concerns. Seventy-five customers attended. *Id.*; see also Administrative Record, Item No. 24.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners contend that the Rosser post office should not be closed. Petitioners assert that the Rosser post office is convenient for customers, especially elderly customers with disabilities and customers who do not drive. Petitioners are concerned that if their mail is delivered by rural carrier, it will not be secure. Petitioners foresee inconveniences in purchasing money orders and stamps, the sending and receiving of certified letters, registered letters, and CODs. Petitions at 1-2.

Postal Service. The Postal Service argues that the Commission should affirm its determination to discontinue the Rosser post office. Postal Service Comments at 2. The Postal Service maintains that it has followed the proper closing procedures of 39 U.S.C. § 404(d) and carefully considered the required factors of section 404(d)(2) in making its determination. *Id.* at 3.

The Postal Service states that its decision to close the Rosser post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload generating low and declining revenue;
- the variety of delivery and retail options available;

- minimal impact upon the community;
- minimal recent growth in the area; and
- expected financial savings.

Id. at 4.

The Postal Service asserts that it has addressed each of the concerns raised by Petitioners and that it has satisfied the requirements of 39 U.S.C. § 404(d). The Postal Service explained that customers may place a lock on their mailboxes. *Id.* at 6.

Public Representative. The Public Representative contends that the decision of the Postal Service to close the Rosser post office should be remanded. PR Reply Brief at 7. The Public Representative concludes, after reviewing the Final Determination and materials in the Administrative Record, that the Postal Service has overstated the savings from closing the Rosser post office and that the closing is solely the result of the post office operating at a deficit. *Id.* at 6-8.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record developed by the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the office. 39 U.S.C. § 404(d)(5).

Notice of the Postal Service's proposal to close the Rosser post office and to continue to provide rural route service was posted at the Rosser and Scurry post offices from March 30, 2011 through May 31, 2011. Administrative Record, Item No. 33 at 1. The Postal Service received six comments during the 60-day period. *Id.* Item Nos. 34, 38, 40.⁶ The Final Determination to close the Rosser post office was posted at the same two post offices from July 1, 2011 through August 2, 2011. Administrative Record, Item No. 48.

Based on review of the record, the Commission finds that the Postal Service has met the minimum notice requirements of 39 U.S.C. § 404(d). However, the Commission expects future notice provided to customers under the new Postal Operations Manual to be more robust.

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service

⁶ On January 27, 2011, the Postal Service had distributed questionnaires to 147 delivery customers (including, apparently, post office box holders) and made questionnaires available at the Rosser Post Office counter and received 48 completed responses. *Id.*, Item No. 33 at 1.

will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A). Also, section 101(b) prohibits the Postal Service from closing any small post office solely for operating at a deficit.

Effect on the community. The Postal Service states that Rosser is an incorporated rural community located in Kaufman County. The Kaufman County Sheriff's Department provides police protection. The community is administered politically by Rosser City Hall, with fire protection provided by the Rosser Fire Department. The questionnaires completed by Rosser customers indicate that, in general, the retirees, farmers, commuters, and others who reside in Rosser must travel elsewhere for other supplies and services. Postal Service Comments at 8.

The Postal Service procedures prior to the Postal Operations Manual changes on July 14, 2011 require it to solicit input from the community by distributing questionnaires to customers and by holding a community meeting. The Postal Service met with 75 members of the community and solicited input from the community with questionnaires. Customers raised concerns regarding the effect of the closure on postal services. The Postal Service responded to each customer individually with a standard letter. Administrative Record, Item No. 22. Their concerns and the Postal Service's responses are summarized in the Final Determination.

Among other things, Petitioners express concern about the effect of the closing of the Rosser post office on local businesses. None of the petitioners indicated that they represented local businesses. The Postal Service's evaluation that the community is experiencing minimal growth relies on its own facilities' planning website. No external data or studies were presented in the record. The Postal Service acknowledges however that the Rosser post office plays a role in the community and the local economy other than just providing postal services. Postal Service Comments at 8-9.

There is no indication that the business community will be adversely affected. Questionnaire responses revealed that customers will continue to use local businesses if the Post Office is discontinued.

Final Determination at 9. The Postal Service acknowledges other petitioner concerns by noting that nonpostal services provided by the Rosser post office can be provided by the Scurry post office. Further, government forms usually provided by the post office are also available by contacting local government agencies directly. Postal Service Comments at 8. Customers were also concerned about loss of community identity. The Postal Service's position is that it will preserve the community identity by continuing the use of the Rosser name in addresses.⁷

Upon review of the record in this proceeding, the Commission concludes that the Postal Service has met the minimum requirement that it consider the effect of closing on the community. 39 U.S.C. § 404(d)(2)(i).

Effective and regular service. Petitioners raise the issue of the effect on postal services of the Rosser post office's closing, noting the convenience of the Rosser post office and requesting its retention. Petitioners express particular concern about the effect of the closing on the customers of the Rosser post office who do not own a car; the quality of the rural service provided by the Scurry post office; the sanctity of the mail; inconveniences in purchasing money orders and stamps, the sending and receiving of certified letters, registered letters, and CODs; and receiving the same postal service provided to those who live in urban areas. The Postal Service commented on these concerns when it responded to customer comments in submitted questionnaire responses, when it answered questions at the community meeting in response to the proposal to close the Rosser post office. Administrative Record, Item Nos. 22, 23, 25, 33; *see also* Postal Service Comments at 5-11.

The Postal Service considered the effect of the closing on the customers of the Rosser post office who do not own a car. It notes that similar access to retail services is available from the carrier, and that customers will not have to travel to another post office for service. The Postal Service represents that most transactions do not require meeting the carrier at the mailbox. Stamps by Mail and Money Order application forms

⁷ Final Determination at 3 (Concern 5), *see also id.* at 4 (Concern 16) ("The new address will continue to use the community name and ZIP Code.").

are available for customer convenience. Administrative Record, Item No. 23 at 5; *id.* Item No. 25 at 1; *id.* Item No. 33 at 5-6; *id.* Item No. 40; *id.* Final Determination at 3, 7.

The Postal Service considered the relative quality of rural service provided by rural carriers and by the Scurry post office. It explained that its carriers attempt to provide service at approximately the same time on a daily basis. Mail volumes and weather conditions, however, can affect delivery times. Rural carriers are required to serve the route expeditiously. Administrative Record, Item No. 23 at 2-3; *id.* Item No. 33 at 2-3; *id.* Final Determination at 3, 7. The Postal Service asserts that access to a rural letter carrier at about the same time once each day will be an adequate substitute for those users of the Rosser post office who cannot drive.

With respect to the sanctity of the mail, the Postal Service stated that customers have the option to place a lock on their mailboxes, as long as the mailbox has a slot large enough to accommodate the customer's normal daily mail volume. Administrative Record, Item No. 23 at 2; *id.* Item No. 33 at 5; *id.* Final Determination at 5.

The effect of the closing on the provision of various postal services including the purchase of money orders and stamps, the sending and receiving of certified letters, registered letters, and CODs was considered by the Postal Service. The Postal Service explained that money orders can be purchased from the rural carrier. Administrative Record, Item No. 25 at 1; *id.* Item No. 47 at 6; *id.* Final Determination at 8. The Postal Service explained that if a customer desires special services from the rural carrier, the customer may leave a note in the customer's mailbox instructing the carrier to sound his horn, and then meet the carrier to receive services. The rural carrier will accept any letters or packages for mailing. The carrier will estimate the cost and provide a receipt for any money received. On the following delivery day, the carrier will provide change or a bill for the amount over the estimate. Retail services may also be obtained at the Scurry post office. Administrative Record, Item No. 23 at 2-3; *id.* Item No. 33 at 2-3; *id.* Final Determination at 2-3.

Upon review of the record in this proceeding, the Commission concludes that the Postal Service has considered its ability to provide a maximum degree of effective and regular service. 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$30,753. It derives this figure by summing the following costs: postmaster salary and benefits \$40,707; and annual lease costs \$6,000, minus the cost of replacement service \$15,954. Final Determination at 9.

The Public Representative asserts that this estimate of savings is inflated. She contends that the Postal Service will continue to pay both the former postmaster and non-career employee after the Rosser post office is closed and that absent further justification, the estimated savings should be reduced by the compensation costs. PR Reply Brief at 6-7.

The Commission has stated on numerous occasions that the Postal Service should not compute savings based on compensation costs that are not eliminated by the discontinuance of an office.⁸ That does not appear to have happened in this instance. The Rosser postmaster was promoted in March 2008. Final Determination at 1, 9; see *also* Administrative Record, Item No. 44. Since that time, the post office has been run by a temporary officer-in-charge, a non-career postmaster relief (PMR). Final Determination at 2.

The Public Representative states that the postmaster's status is unclear. She notes that the record indicates that the postmaster was promoted, but that it also suggests he or she may have retired. In either event, the Public Representative contends that the Postal Service overstates potential savings. PR Comments at 6. The status of the former Rosser postmaster is not relevant to computing savings due to discontinuance. The relevant consideration is that the position is vacant.

⁸ See, e.g., Docket No. A2011-16, Order No. 843, Order Affirming Determination, September 8, 2011; Docket No. A2011-18, Order No. 865, Order Affirming Determination, September 20, 2011; Docket No. A2011-19, Order No. 912, Order Affirming Determination, October 20, 2011; Docket No. N2009-1, Advisory Opinion Concerning the Process for Evaluating Closing Stations and Branches, March 10, 2010.

The non-career PMR may be separated from the Postal Service upon discontinuance of the Rosser post office. No other employees will be adversely affected. Final Determination at 9.

The Commission finds that the Postal Service has considered economic savings.

Section 101(b). Section 101(b) prohibits closing any small post office solely for operating at a deficit. The Public Representative contends that the Postal Service's closing of the Rosser post office violates section 101(b) because none of the reasons it advances is unrelated to the Rosser post office deficit. PR Reply Brief at 7-8. She states:

While the Postal Service[] cites Rosser's declining revenue, low workload, and postmaster vacancy as three distinct reasons for Rosser's discontinuance, it would be illogical and disingenuous to view these problems as independent of Rosser's deficit problem when, in reality, they are two causes and a symptom thereof.

Id. at 8.

To be sure, economics plays a role in the Postal Service's decision. Having examined the record, however, the Commission is not prepared to conclude that the Postal Service's determination violates section 101(b). In addition to considering workload at the Rosser post office (revenues declining and averaging only 19 retail transactions per day), the Postal Service took into account other factors. The postmaster position is vacant, and growth in the area appears to have been minimal in recent years. Final Determination at 4. Regular and adequate postal services will be provided to customers in Rosser.

VI. CONCLUSION

Based on the review of the record, the Commission concludes that the Postal Service has met the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Rosser, Texas post office is affirmed.

It is ordered:

The Postal Service's determination to close the Rosser, Texas post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary